

# AGRICULTURE AND FOOD ACT OF 1981

[As Amended Through P.L. 106-170, Dec. 17, 1999]

\* \* \* \* \*

## TITLE XV—RESOURCE CONSERVATION<sup>1501-1</sup>

### Subtitle G—Volunteers for Department of Agriculture Programs

#### ESTABLISHMENT OF PROGRAM

SEC. 1526.<sup>1526-1</sup> [7 U.S.C. 2272] (a) The Secretary of Agriculture (hereafter referred to in this subtitle as the “Secretary”) may establish a program to use volunteers in carrying out the programs of the Department of Agriculture.

(b) The Secretary may accept, subject to regulations issued by the Office of Personnel Management, voluntary service for the Department of Agriculture for such purpose if the service:

(1) is to be without compensation; and

(2) will not be used to displace any employee of the Department of Agriculture including the local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act.

(c) Any individual who provides voluntary service under this subtitle shall not be considered a Federal employee, except for purposes of chapter 81 of title 5, United States Code (relating to compensation for injury), and sections 2671 through 2680 of title 28, United States Code (relating to tort claims).

#### AUTHORIZATION FOR APPROPRIATIONS

SEC. 1527. [7 U.S.C. 2272 note] There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subtitle, such sums to remain available until expended.

### Subtitle H—Resource Conservation and Development Program

#### PURPOSE

SEC. 1528. [16 U.S.C. 3451] It is the purpose of this subtitle to encourage and improve the capability of State and local units of government and local nonprofit organizations in rural areas to plan, develop, and carry out programs for resource conservation and development.

#### DEFINITIONS

SEC. 1529. [16 U.S.C. 3452] As used in this subtitle—

(1) The term “area plan” means a resource conservation and utilization plan which is developed for a designated area

<sup>1501-1</sup> Sec. 336(f)(1) of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104-127, 110 Stat. 1007, April 4, 1996, repealed subtitles A, B, D, E, and F of this title. For the previous version of the subtitles, see pp. 7-1 through 7-9 of Vol. III—Conservation and Miscellaneous Programs (as of January 16, 1996).

<sup>1526-1</sup> See Sec. 739 of P.L. 102-142, 105 Stat. 915, Oct. 28, 1991, relating to expenditure of funds by the Department of Agriculture with respect to such volunteers. (7 U.S.C. 2272a).

of a State or States through a planning process and which includes one or more of the following elements:

(A) a land conservation element, the purpose of which shall be to control erosion and sedimentation;

(B) a water management element, the purpose of which shall be to provide for the conservation, utilization, and quality of water, including irrigation and rural water supplies, the mitigation of floods and high water tables, construction, repair, and improvement of dams and reservoirs, improvement of agricultural water management, and improvement of water quality through control of nonpoint sources of pollution;

(C) a community development element, the purpose of which shall be the development of natural resources based industries, protection of rural industries from natural resource hazards, development of aquaculture, development of adequate rural water and waste disposal systems, improvement of recreation facilities, improvement in the quality of rural housing, provision of adequate health and education facilities, and satisfaction of essential transportation and communication needs; or

(D) other elements, the purpose of which may include energy conservation or protection of agricultural land, as appropriate, from conversion to other uses, or protection of fish and wildlife habitats.

(2) The term "designated area" means a geographic area designated by the Secretary to receive assistance under this subtitle.

(3) The term "planning process" means the continuous effort by any State, local unit of government, or local nonprofit organization to develop and carry out effective resource conservation and utilization plans for a designated area, including development of an area plan, goals, objectives, policies, implementation activities, evaluations and reviews, and the opportunity for public participation in such efforts.

(4) The term "financial assistance" means the cost-sharing arrangements that are available under this subtitle through Federal contracts, grants, or loans.

(5) The term "local unit of government" means any county, city, town, township, parish, village, or other general-purpose subdivision of a State, any local or regional special district or other limited political subdivision of a State, including any soil conservation district, school district, park authority, and water or sanitary district, or any Indian tribe or tribal organization established under Federal, State, or Indian tribal law.

(6) The term "nonprofit organization" means any community association, wildlife group, or resource conservation organization that is incorporated and approved by the Secretary for the purpose of providing to any rural area those public facilities or services included in the area plan for such rural area.

(7) The term "Secretary" means the Secretary of Agriculture.

(8) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, the Commonwealth of the

Northern Mariana Islands, the Trust Territory of the Pacific Islands, and American Samoa.

(9) The term “technical assistance” means any service provided by personnel of the Department of Agriculture or non-Federal personnel working through the Department of Agriculture, including, but not limited to, inventorying, evaluating, planning, designing, supervising, laying out and inspecting works of improvement, and the providing of maps, reports, and other documents associated with the services provided.

(10) The term “works of improvement” means the facilities installed or being installed in accord with an area plan.

#### RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM

SEC. 1530. [16 U.S.C. 3453] The Secretary shall establish a resource conservation and development program under which the Secretary shall make available to States, local units of government, and local nonprofit organizations the technical and financial assistance necessary to permit such States, local units of government, and local nonprofit organizations to operate and maintain a planning and implementation process needed to conserve and improve the use of land, develop natural resources, and improve and enhance the social, economic, and environmental conditions in rural areas of the United States.

#### SELECTION OF NEW DESIGNATED AREAS

SEC. 1531. [16 U.S.C. 3454] The Secretary shall select designated areas for assistance under this subtitle on the basis of the elements specified in section 1529(1).

#### AUTHORITY OF THE SECRETARY

SEC. 1532. [16 U.S.C. 3455] In carrying out the provisions of this subtitle, the Secretary may—

(1) provide technical assistance to any State, local unit of government, or local nonprofit organization within a designated area to assist in developing and implementing an area plan for that area;

(2) cooperate with other departments and agencies of the Federal Government, State, and local units of government, and with local nonprofit organizations in conducting surveys and inventories, disseminating information, and developing area plans;

(3) assist in carrying out an area plan approved by the Secretary for any designated area by providing technical and financial assistance to any State, local unit of government, or local nonprofit organization designated to receive such assistance by the Governor or legislature of the State concerned; and

(4) enter into agreements with States, local units of government, and local nonprofit organizations, as provided in section 1533.

#### AGREEMENTS; TERMS AND CONDITIONS

SEC. 1533. [16 U.S.C. 3456] (a) Technical and financial assistance, including loans, may be provided by the Secretary to any State, local unit of government, or local nonprofit organization to assist in carrying out works of improvement specified in an area plan approved by the Secretary only if—

(1) such State, local unit of government, or local nonprofit organization agrees in writing to carry out such works of improvement and to finance or arrange for financing of any portion of the cost of carrying out such works of improvement for which financial assistance is not provided by the Secretary under this subtitle;

(2) the works of improvement for which assistance is to be provided under this subtitle are included in an area plan and have been approved by the State, local unit of government, or local nonprofit organization to be assisted;

(3) the Secretary determines that assistance to finance the type of works of improvement concerned is not reasonably available to such State, local unit of government, or local nonprofit organization under any other Federal program;

(4) the works of improvement provided for in the area plan are consistent with any current comprehensive plan for such area;

(5) the cost of the land or an interest in the land acquired or to be acquired under such plan by any State, local unit of government, or local nonprofit organization is borne by such State, local unit of government, or local nonprofit organization; and

(6) the State, local unit of government, or local nonprofit organization participating in an area plan agrees to maintain and operate all works of improvement installed under such plan.

(b) Loans made under this subtitle shall be made on such terms and conditions as the Secretary may prescribe, except that such loans shall have a repayment period of not more than thirty years from the date of completion of the work of improvement for which the loan is made and shall bear interest at the average rate of interest paid by the United States on its obligations of a comparable term, as determined by the Secretary of the Treasury.

(c) Assistance may not be made available to any State, local unit of government, or local nonprofit organization to carry out any area plan unless such plan has been submitted to and approved by the Secretary.

(d) The Secretary may withdraw technical and financial assistance with respect to any area plan if the Secretary determines that such assistance is no longer needed or that sufficient progress has not been made toward developing or implementing the elements of such plan.

#### RESOURCE CONSERVATION AND DEVELOPMENT POLICY BOARD

SEC. 1534. [16 U.S.C. 3457] (a) The Secretary shall establish within the Department of Agriculture a Resource Conservation and Development Policy Board.

(b) Such board shall be composed of seven employees of the Department of Agriculture selected by the Secretary. One member shall be designated by the Secretary to serve as chairman.

(c) It shall be the function of such board to advise the Secretary regarding the administration of the provisions of this subtitle, including the formulation of policies for carrying out the program provided for by this subtitle.

## EVALUATION OF PROGRAM

SEC. 1535. [16 U.S.C. 3458] The Secretary shall evaluate the program provided for in this subtitle to determine whether such program is effectively meeting the needs of, and the objectives identified by, the States, local units of government, and local nonprofit organizations participating in such program. The Secretary shall submit a report to Congress containing the results of the evaluation not later than December 31, 1986, together with the Secretary's recommendations for continuing, terminating, redirecting, or modifying such program.

## LIMITATION ON PROVISION OF ASSISTANCE

SEC. 1536. [16 U.S.C. 3459] The program provided for in this subtitle shall be limited to providing technical and financial assistance to not more than 450<sup>1536-1</sup> active designated areas.

## SUPPLEMENTAL AUTHORITY OF THE SECRETARY

SEC. 1537. [16 U.S.C. 3460] The authority of the Secretary under this subtitle to assist States, local units of government, and local nonprofit organizations in the development and implementation of area plans shall be supplemental to, and not in lieu of, any authority of the Secretary under any other provision of law.

## AUTHORIZATION FOR APPROPRIATIONS

SEC. 1538. [16 U.S.C. 3461] There are authorized to be appropriated for each of the fiscal years 1996 through 2002<sup>1538-1</sup> such sums as may be necessary to carry out the provisions of this subtitle, except that not more than \$15,000,000 may be appropriated for loans for any fiscal year. Funds appropriated pursuant to this subtitle shall remain available until expended.

## Subtitle I—Farmland Protection Policy Act

## SHORT TITLE

SEC. 1539. [7 U.S.C. 4201 note] This subtitle may be cited as the "Farmland Protection Policy Act".

## FINDINGS, PURPOSE, AND DEFINITIONS

SEC. 1540. [7 U.S.C. 4201] (a) Congress finds that—

(1) the Nation's farmland is a unique natural resource and provides food and fiber necessary for the continued welfare of the people of the United States;

(2) each year, a large amount of the Nation's farmland is irrevocably converted from actual or potential agricultural use to nonagricultural use;

(3) continued decrease in the Nation's farmland base may threaten the ability of the United States to produce food and fiber in sufficient quantities to meet domestic needs and the demands of our export markets;

<sup>1536-1</sup> Sec. 1452(a) of P.L. 101-624, 104 Stat. 3611, Nov. 28, 1990, amended this sec. by striking "two hundred and twenty-five" and inserting "450".

<sup>1538-1</sup> Sec. 1452(b) of P.L. 101-624, 104 Stat. 3611, Nov. 28, 1990, amended this sec. by striking "for each of the five fiscal years beginning October 1, 1982, and ending September 30, 1987," and inserting "for each of the fiscal years 1991 through 1995". Sec. 383 of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104-127, 110 Stat. 1016, April 4, 1996, amended this sec. by striking "1991 through 1995" and inserting "1996 through 2002".

(4) the extensive use of farmland for nonagricultural purposes undermines the economic base of many rural areas;

(5) Federal actions, in many cases, result in the conversion of farmland to nonagricultural uses where alternative actions would be preferred;

(6) the Department of Agriculture is the agency primarily responsible for the implementation of Federal policy with respect to United States farmland, assuring the maintenance of the agricultural production capacity of the United States, and has the personnel and other resources needed to implement national farmland protection policy; and

(7) the Department of Agriculture and other Federal agencies should take steps to assure that the actions of the Federal Government do not cause United States farmland to be irreversibly converted to nonagricultural uses in cases in which other national interests do not override the importance of the protection of farmland nor otherwise outweigh the benefits of maintaining farmland resources.

(b) The purpose of this subtitle is to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with State, unit of local government, and private programs and policies to protect farmland.

(c) As used in this subtitle—

(1) the term “farmland” includes all land defined as follows:

(A) prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor, and with intolerable soil erosion, as determined by the Secretary. Prime farmland includes land that possesses the above characteristics but is being used currently to produce livestock and timber. It does not include land already in or committed to urban development or water storage;

(B) unique farmland is land other than prime farmland that is used for production of specific high-value food and fiber crops, as determined by the Secretary. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of specific crops when treated and managed according to acceptable farming methods. Examples of such crops include citrus, tree nuts, olives, cranberries, fruits, and vegetables; and

(C) farmland, other than prime or unique farmland, that is of statewide or local importance for the production of food, feed, fiber, forage, or oilseed crops, as determined by the appropriate State or unit of local government agency or agencies, and that the Secretary determines should be considered as farmland for the purposes of this subtitle;

(2) the term “State” means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or any territory or possession of the United States;

(3) the term “unit of local government” means the government of a county, municipality, town, township, village, or other unit of general government below the State level, or a combination of units of local government acting through an areawide agency under State law or an agreement for the formulation of regional development policies and plans;

(4) the term “Federal program” means those activities or responsibilities of a department, agency, independent commission, or other unit of the Federal Government that involve (A) undertaking, financing, or assisting construction or improvement projects; or (B) acquiring, managing, or disposing of Federal lands and facilities. The term “Federal program” does not include construction or improvement projects that on the effective date of this subtitle are beyond the planning stage and are in either the active design or construction state; and

(5) the term “Secretary” means the Secretary of Agriculture.

#### FARMLAND PROTECTION POLICY

SEC. 1541. [7 U.S.C. 4202] (a) The Department of Agriculture, in cooperation with other departments, agencies, independent commissions, and other units of the Federal Government, shall develop criteria for identifying the effects of Federal programs on the conversion of farmland to nonagricultural uses.

(b)<sup>1541-1</sup> Departments, agencies, independent commissions, and other units of the Federal Government shall use the criteria established under subsection (a) of this section, to identify the quantity of farmland actually converted by Federal programs, and to identify and take into account the adverse effects of Federal programs on the preservation of farmland; consider alternative actions, as appropriate, that could lessen such adverse effects; and assure that such Federal programs, to the extent practicable, are compatible with State, unit of local government, and private programs and policies to protect farmland.

(c) The Department of Agriculture may make available to States, units of local government, individuals, organizations, and other units of the Federal Government information useful in restoring, maintaining, and improving the quantity and quality of farmland.

#### EXISTING POLICIES AND PROCEDURES

SEC. 1542. [7 U.S.C. 4203] (a) Each department, agency, independent commission, or other unit of the Federal Government, with the assistance of the Department of Agriculture, shall review current provisions of law, administrative rules and regulations, and policies and procedures applicable to it to determine whether any provision thereof will prevent such unit of the Federal Government from taking appropriate action to comply fully with the provisions of this subtitle.

(b) Each department, agency, independent commission, or other unit of the Federal Government, with the assistance of the Department of Agriculture, shall, as appropriate, develop proposals for ac-

<sup>1541-1</sup> Sec. 1454 of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101-624, 104 Stat. 3614, Nov. 28, 1990, added “to identify the quantity of farmland actually converted by Federal programs, and”.

tion to bring its programs, authorities, and administrative activities into conformity with the purpose and policy of this subtitle.

#### TECHNICAL ASSISTANCE

SEC. 1543. [7 U.S.C. 4204] The Secretary is encouraged to provide technical assistance to any State or unit of local government, or any nonprofit organization, as determined by the Secretary, that desires to develop programs or policies to limit the conversion of productive farmland to nonagricultural uses.

#### FARMLAND RESOURCE INFORMATION

SEC. 1544. [7 U.S.C. 4205] (a) The Secretary, through existing agencies or interagency groups, and in cooperation with the cooperative extension services of the States, shall design and implement educational programs and materials emphasizing the importance of productive farmland to the Nation's well-being and distribute educational materials through communications media, schools, groups, and other Federal agencies.

(b) The Secretary shall designate one or more farmland information centers to serve as central depositories and distribution points for information on farmland issues, policies, programs, technical principles, and innovative actions or proposals by local and State governments.

#### GRANTS; CONTRACTS

SEC. 1545. [7 U.S.C. 4206] The Secretary may carry out the purposes of this subtitle, with existing facilities and funds otherwise available, through the use of grants, contracts, or such other means as the Secretary deems appropriate.

#### REPORT

SEC. 1546. [7 U.S.C. 4207] On January 1, 1987, and at the beginning of each subsequent calendar year.<sup>1546-1</sup> the Secretary of Agriculture shall report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the progress made in implementing the provisions of this subtitle. Such report shall include information on—

(1) the effects, if any, of Federal programs, authorities, and administrative activities with respect to the protection of United States farmland; and

(2) the results of the reviews of existing policies and procedures required under section 1542(a) of this subtitle.

#### STATEMENT OF LIMITATION

SEC. 1547. [7 U.S.C. 4208] (a) This subtitle does not authorize the Federal Government in any way to regulate the use of private or non-Federal land, or in any way affect the property rights of owners of such land.

<sup>1546-1</sup> Sec. 1255(a) of P.L. 99-198, 99 Stat. 1518, Dec. 23, 1985, amended this sec. by striking "Within one year after the enactment of this subtitle," and inserting "On January 1, 1987, and at the beginning on each subsequent calendar year.". Period at end of phrase so in law. The period should probably be replaced with a comma.



(b) <sup>1547-1</sup> None of the provisions or other requirements of this subtitle shall apply to the acquisition or use of farmland for national defense purposes during a national emergency.

#### PROHIBITION

SEC. 1548. <sup>1548-1</sup> [7 U.S.C. 4209] This subtitle shall not be deemed to provide a basis for any action, either legal or equitable, by any person or class of persons challenging a Federal project, program, or other activity that may affect farmland: *Provided*, That the Governor of an affected State where a State policy or program exists to protect farmland may bring an action in the Federal district court of the district where a Federal program is proposed to enforce the requirements of section 1541 of this subtitle and regulations issued pursuant thereto.

#### EFFECTIVE DATE

SEC. 1549. [7 U.S.C. 4201 note] The provisions of this subtitle shall become effective six months after the date of enactment of this Act.

### Subtitle J—Miscellaneous Provisions

#### LOCAL SEARCH AND RESCUE OPERATIONS

SEC. 1550. [7 U.S.C. 2273] The Secretary of Agriculture may assist, through the use of Soil Conservation Service personnel, vehicles, communication equipment, and other equipment or materials available to the Secretary, in local search and rescue operations when requested by responsible local public authorities. Such assistance may be provided in emergencies caused by tornadoes, fires, floods, snowstorms, earthquakes, and similar disasters.

#### RECLAMATION

SEC. 1551. Section 406(d) of the Surfacing Mining Control and Reclamation Act of 1977 (30 U.S.C. 1246(d)) is amended by adding at the end thereof the following new sentence: “Notwithstanding any other provision of this section with regard to acreage limitations, the Secretary of Agriculture may carry out experimental reclamation treatment projects to control erosion and improve water quality on all lands within a hydrologic unit, consisting of not more than 25,000 acres, if the Secretary determines that treatment of such lands as a hydrologic unit will achieve greater reduction in the adverse effects of past surface mining practices than would be achieved if reclamation was done on individual parcels of land.”.

#### PAYMENTS FOR LAND REMOVED FROM PRODUCTION FOR CONSERVATION PURPOSES

SEC. 1552. [16 U.S.C. 3471] (a) The Secretary of Agriculture may enter into contracts to provide financial assistance in the form of payments to owners and operators of cropland located in counties where the soil normally freezes to a depth of at least four inches annually who remove such land from agricultural production for a period not to exceed one year for the purpose of installing enduring conservation measures which involve excavation of the soil. The

<sup>1547-1</sup> Sec. 2502 of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101-624, 104 Stat. 4086, Nov. 28, 1990, added “during a national emergency”.

<sup>1548-1</sup> Sec. 1255(b) of P.L. 99-198, 99 Stat. 1518, Dec. 23, 1985, amended this sec. by striking “any State, local unit of government, or” and inserting the proviso.

payments under such contracts shall be in such amounts as determined by the Secretary to be necessary to effectuate the purposes of this subtitle but shall not exceed an amount equal to the number of acres of cropland removed from agricultural production for such purpose multiplied by 50 per centum of the typical annual rent, as determined by the Secretary, paid for similar land in the county. Financial assistance may not be provided under this section with respect to any conservation measure without the approval of the soil and water conservation district board for the district in which the land is located, and may not, in the aggregate, be provided in any year with respect to more than one-half of 1 per centum of the cropland in any county.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, such sums to remain available until expended.

#### CONSERVATION TILLAGE

SEC. 1553. [16 U.S.C. 3472] (a) Congress finds that—

(1) domestic and international demand for agricultural products from the United States is great and is expected to significantly increase over the next twenty years;

(2) the ability of the United States to provide agricultural products to meet that demand is seriously impaired by the annual loss of five billion tons of soil due to wind and water erosion;

(3) the battle against soil erosion is being lost despite the annual expenditure of millions of dollars by the Federal Government on research, technical assistance, and conservation incentives to control soil erosion;

(4) conservation tillage practices are estimated to reduce soil erosion by 50 to 90 per centum over conventional farming practices; and

(5) conservation tillage may result in better yields, greater land use flexibility, decreased fuel use, decreased labor and equipment costs, increased retention of soil moisture, and more productive land than conventional farming practices and may be adaptable to a broad range of soil types and slopes throughout the country.

(b) It is the sense of Congress that the Secretary of Agriculture should, and is hereby urged and requested to—

(1) direct the attention of our Nation's farmers to the costs and benefits of conservation tillage as a means of controlling soil erosion and improving profitability; and

(2) conduct a program of research designed to resolve any unanswered questions regarding the advantages and disadvantages of conservation tillage over other soil conservation practices.

#### REGULATIONS

SEC. 1554. [16 U.S.C. 3473] The Secretary of Agriculture shall prescribe such regulations as may be necessary to carry out the provisions of this title.